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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,592	06/25/2003	Steven E. Tivey	52493.000313	1425

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HUNTON & WILLIAMS LLP  
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WASHINGTON, DC 20006-1109

EXAMINER
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MCCORMICK, GABRIELLE A

ART UNIT	PAPER NUMBER
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3629

MAIL DATE	DELIVERY MODE
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01/06/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/602,592	<b>Applicant(s)</b> TIVEY ET AL.	
	<b>Examiner</b> Gabrielle McCormick	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,6-15,20 and 21 is/are allowed.
- 6) ☒ Claim(s) 16-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/26/2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Status of Claims*

1. This action is in reply to the amendment filed on November 26, 2008.
2. Claims 16 and 19 have been amended.
3. Claims 1 and 6-21 are currently pending and have been examined.

### *Information Disclosure Statement*

4. The Information Disclosure Statement filed on November 26, 2008 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

### *Claim Rejections - 35 USC § 112*

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claim 19 contains the following limitations:
  - *tagging...as a duplicate lead based on a determination that there is a match between the **new sales lead information** and any of the **existing sales lead information**;*
  - *comparing the **new sales lead information** with the **existing sale lead information** and in the event the **new sales lead information** matches **existing sales information**, deleting the new sales lead information...and in the event the **new sales information** does not match **existing sales information** tagging the new sale lead information...*
8. First, "the new sales information" lacks proper antecedent basis.

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9. Second, it is unclear whether “existing sales information” is to be understood as synonymous with “existing sales lead information” and whether “new sales information” is to be understood as synonymous with “new sales lead information”. As the comparison is performed between “new sales lead information” and “existing sales lead information”, the phrases are construed to be synonymous.
10. Third, the tagging step provides that “new sales lead information” matches “existing sales lead information”, therefore, it is unclear how the new sales lead information will ever result in being tagged as this condition relies upon “new sales information” NOT matching “existing sales information”. The further processing also discloses that a match will result in the new sales lead information being deleted, thus the only further processing appears to be deleting the duplicate lead. The comparison step does not provide any further criteria for a match that would result in differentiating the matching performed in the “further processing”.
11. Fourth, it is unclear whether the intent of the comparison during the further processing is that **all** new sales lead information must match to **all** existing sales information in order for the new sales lead information to be deleted. The specification at P[0207] is limited to an example of comparing agent names when a duplicate is tagged in order to determine whether the new lead is agent generated.
12. With regards to the previous rejections of claims 1, 6-15 and 20-21 under 112, first and second paragraphs, Applicant’s arguments are persuasive, especially in light of Fig. 26. These rejections are withdrawn.

### ***Claim Rejections - 35 USC § 101***

13. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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14. Claims 16-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 16 recites "an agent processor" without providing any structure. The specification's sole mention of "an agent processor" is in P[0016], but it does not disclose any structure. The "agent processor" appears to be distinct from the "lead processing portion" because the claim states that the information that is inputted by the "agent processor" is transmitted to the lead processing portion. Thus, the agent processor is understood to be the "Data entry portion 36" as disclosed in Fig. 1. The specification states that this may be "a person working from a PC at home". (P[0056]). As a result, claim 16 is read to claim human beings themselves, which are non-statutory subject matter and are therefore barred from patentability.
15. Claims 17-18 depend either directly or indirectly from claim 16 and are therefore rejected.

### ***Allowable Subject Matter***

16. Claims 1, 6-15 and 20-21 are allowable.
17. Claims 16-19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph and 35 U.S.C. 101, as set forth in this Office action.
18. With regard to claim 19, as currently amended and in light of Examiner's remarks under 35 U.S.C. 112, second paragraph, the particular allowable feature is tagging the new sales lead information as an agent generated lead when the new sales information does not match existing sales information. The Examiner asserts that Dver discloses deleting a lead when new and existing information matches. (P[0080-0081]: an administrator resolves the duplicates; "If the selected information is the record already entered and saved in the database, that record is updated and the new record is not saved" (i.e., it's deleted)). In this case all leads, including agent generated, would be deleted.

### ***Response to Arguments***

19. The Examiner disagrees with Applicant's assertion that claim 19 contains similar limitations as argued with respect to claim 1.
20. The Examiner has introduced a new ground of rejection for claims 16-18 that was not necessitated by Applicant's amendment, therefore, this action is non-final.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is (571)270-1828. The examiner can normally be reached on Monday - Thursday (5:30 - 4:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. M./  
Examiner, Art Unit 3629

/John G. Weiss/  
Supervisory Patent Examiner, Art Unit 3629